

FINAL STATEMENT OF REASONS:

The Initial Statement of Reasons (ISOR) is incorporated by reference.

UPDATES TO THE INITIAL STATEMENT OF REASONS

On November 23, 2010, the California Department of Corrections and Rehabilitation (CDCR) submitted a request to the Office of Administrative Law (OAL) for the Emergency adoption of these regulations concerning Inmate/Parolee Appeals. This request was approved on December 13, 2010, with an effective date of January 28, 2011, as requested by CDCR.

The Notice of Emergency Regulations was published on January 28, 2011, which began the public comment period. The Department's Notice of Change to Regulations (NCR) #11-02 was also mailed the same day in addition to being posted on the CDCR internet and intranet websites. The public hearing was held on March 22, 2011, the final day of the public comment period. At the public hearing, one person spoke.

CHANGES TO THE FINAL TEXT OF EMERGENCY REGULATIONS

The following six changes were incorporated into the originally approved emergency text and presented to the public on January 28, 2011 in both the Notice of Emergency Regulations and NCR #11-02:

Subsection 3084.2(b)

The word "original" was deleted from the reference to supporting documents so that the first sentence now reads "The inmate or parolee shall submit the signed original appeal forms and supporting documents." This was necessary to eliminate redundant use of the word "original."

Subsection 3084.2(e)

The wording "for a third level response to comply with emergency time limits" was deleted and replaced with a new second sentence "The third level review shall be completed within five working days." This was necessary for clear meaning and also done in conjunction with the deletion of subsection 3084.9(a)(5) which was duplicative text.

Subsection 3084.2(f)

The following wording was changed to correct tense disconformities:

- The word "requiring" was changed to "require" to now read in the phrase "require an escort."
- The word "causing" was changed to "cause" to now read in the phrase "cause avoidance or non-performance."

Subsection 3084.3(b)

Reference to subsection 3084.8(a) in the last sentence was changed to reference 3084.8(b). This was necessary for correction as the correct cross-reference is subsection 3084.8(b).

Subsection 3084.4(a)(3)

In the first sentence, the wording "including mischaracterizing a grievance as one that requires emergency processing as provided in subsection 3084.9(a)" was deleted. This was necessary to remove misplaced text that was duplication of content found in subsection 3084.9(a)(2).

Subsection 3084.9(a)(5)

This subsection is deleted as this removes duplication of text found in subsection 3084.2(e) where it is more appropriately placed.

Non-Substantive Changes to Final Text

Subsection 3084.1. A correction in the authority and reference note of the relevant text is in order. After the Notice of Emergency Regulations was published, the Department realized that reference citation to PC 832.5(a) is redundant, and should be removed. PC 832.5 originally corresponded to 3084.1(e): "An appeal alleging misconduct by a departmental peace officer...shall be accompanied by a Rights and Responsibility Statement..." The matter is now correctly addressed in 3084.9(i) and the PC citation in question is properly cited in that section's authority and reference note.

Subsection 3084.2. In accommodation to public comments received, as described in the "Summaries and Responses to Oral and Written Comments," the following non-substantive change, for corrective purposes, is made in (h)(6): "...group appeal counts towards..." (extra letter "s" in word "toward" deleted).

Changes to the CDCR Form 602

In accommodation to public comments received, as described in the "Summaries and Responses to Oral and Written Comments," the following non-substantive changes, for corrective purposes, were made to the CDCR Form 602:

- On page one, in the first paragraph, line three, the acronym (CCR) was relocated and placed after the wording "California Code of Regulations."
- On page one, in the first paragraph, line four, the word "lead" has been changed to "led" for correct spelling.
- On page two, the capital letter "H" has been added to now designate Request to Withdraw Appeal as section H. This corrects an inadvertent omission.

DETERMINATION

The Department has determined that no alternative considered would be more effective in carrying out the purpose of this action or would be as effective and less burdensome to affected persons.

ASSESSMENTS, MANDATES, AND FISCAL IMPACT

This action will neither create nor eliminate jobs in the State of California, nor result in the elimination of existing businesses, or create or expand businesses in the State of California.

The Department in proposing amendments to these regulations, has not identified nor has it relied upon any technical, theoretical, or empirical study, report, or similar document.

The Department determines this action imposes no mandates on local agencies or school districts; no fiscal impact on State or local government, or Federal funding to the State, or private persons. It is also determined that this action does not affect small businesses nor have a significant adverse economic impact on businesses, including the ability of California businesses to compete with businesses in other states because they are not affected by the internal management of State prisons; and no costs or reimbursements to any local agency or school district within the meaning of Government Code Section 17561. The Department has made an initial determination that the proposed action will have no significant effect on housing costs. Additionally, there has been no testimony or other evidence provided that would alter the Department's initial determination.

PUBLIC HEARING COMMENTS

Public Hearing: Held March 22, 2011, at 9:00 a.m.

One person provided a statement at the public hearing. From that statement, three separate comments emerged. The public hearing comment summary and responses has been included in the "Summaries and Responses to Oral and Written Public Comments."

WRITTEN PUBLIC COMMENTS

During the public comment period, 65 individual documents were submitted providing written commentary. Some individuals submitted more than one document. From these documents, 415 written comments emerged. Because of the large number of separate comments, it was decided that instead of trying to summarize and respond to each individual comment, it would be best to organize and respond to these comments by grouping comments similar in subject matter under a general topic heading. For each topic heading, one response is then provided. This format eliminates the need for repetitive answers and/or multiple cross references that would have resulted if each separate comment had been summarized and responded to.

All the comments received, both written and oral (public hearing), are presented in the attached "Summaries and Responses to Oral and Written Public Comments." To better understand how this document is organized and presented, the following is a brief explanation. Each individual commenter/document was given an identifier, which in this case is an initial or group of initials (e.g. D, H, JA, MAW, etc.). Under each identifier/document, each specific comment was then issued a number and appears after the identifying initial(s) (e.g. D- #1, H- #2, JA- #3, MAW- #4, etc.). Under each topic heading, all topic related comments are posted. Also, for reference, a one-page "Comment Summary" is included. This document provides a list of each identified commenter/document and the number of separate comments that is provided from each.